

1 Henry C. Bunsow (SBN 60707)
2 hbunsow@bdiplaw.com
Denise M. De Mory (SBN 168076)
3 ddemory@bdiplaw.com
Aaron R. Hand (SBN 245755)
4 ahand@bdiplaw.com
BUNSW DE MORY LLP
701 El Camino Real
5 Redwood City, CA 94063
Telephone: (650) 351-7248
6

7 *Attorneys for Plaintiffs*
TECHNOLOGY PROPERTIES LIMITED, LLC
and MCM PORTFOLIO LLC
8

9

10

11

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

12

13

14

15

TECHNOLOGY PROPERTIES LIMITED, LLC,
and MCM PORTFOLIO LLC,

16

Plaintiffs,

17

v.

18

CANON INC., et al.,

19

Defendant.

20

21

22

23

24

25

26

27

28

CASE NO. 14-cv-03640 CW

**MOTION BY ATTORNEYS AT
BUNSW DE MORY LLP TO
WITHDRAW AS COUNSEL FOR
PLAINTIFFS**

Hearing: January 15, 2019
Time: 2:30 pm
Courtroom: 6, 2nd Floor
Judge: Hon. Claudia Wilken

NOTICE OF MOTION

To the Parties and their Attorneys of Record:

3 PLEASE TAKE NOTICE that on January 15, 2019, or as soon thereafter as the matter may
4 be heard before the Honorable Claudia Wilken, United States District Judge, Courtroom 6, 2nd
5 Floor, of the United States District Court for the Northern District of California, Oakland Division,
6 1301 Clay Street, Oakland, CA 94612, attorneys Henry C. Bunsow, Denise M. De Mory, and
7 Aaron R. Hand of Bunsow De Mory LLP shall and hereby do respectfully seek, pursuant to Civil
8 L.R. 11-5(a) and in compliance with Cal. R. Prof. Conduct 3-700, an Order Permitting Withdrawal
9 as counsel for Plaintiffs Technology Properties Limited, LLC (“TPL”) and MCM Portfolio LLC
10 (“MCM”) in this action and termination from this case. Given the nature of this Motion, Movants
11 respectfully request that the Court waive oral argument.

MOTION TO WITHDRAW AS COUNSEL FOR PLAINTIFFS

13 Pursuant to Civil L.R. 11-5, Henry C. Bunsow, Denise M. De Mory, and Aaron R. Hand of
14 Bunsow De Mory LLP (“Movants”) hereby notify the Parties and the Court of their intent to and
15 request to withdraw as counsel for Plaintiffs TPL and MCM in this action.¹ Movants state the
16 following grounds for this notice and motion:

17 1. Movants represented Plaintiffs in this action—primarily in a local counsel role—in
18 connection with Plaintiffs’ patent infringement action after it was transferred to this District in
19 mid-2014. At that time, Movants were partners at Bunsow De Mory Smith & Allison LLP
20 (“BDSA”). Movants’ representation of Plaintiffs has ended, as set forth in additional detail below,
21 and did not include post-judgment or appellate proceedings. Movants have not been actively
22 involved in this action’s proceedings after the district court’s orders disposing of the case and
23 Canon’s motion for attorneys’ fees in mid-2017. Indeed, the BDSA firm dissolved in August
24 2017, and Movants have not been actively involved in Plaintiffs’ representation in this matter after

²⁷ ¹ Brian A.E. Smith previously entered an appearance for Plaintiffs while a partner at BDSA. Mr. Smith is not as was never affiliated with Bunsow De Mory LLP.

1 the formation of Bunsow De Mory LLP.²

2 2. The court entered an order granting Canon's motion for summary judgment of non-
 3 infringement on September 16, 2016. (Doc. 527.) Judgment was entered, and the case was closed
 4 the same day. (Docs. 528 & 529). Plaintiffs filed a notice of appeal of the court's order granting
 5 summary judgment on October 14, 2016. (Doc. 541).

6 3. Canon filed a motion seeking attorneys' fees and sanctions on September 30, 2017.
 7 The court entered orders on attorneys' fees on January 26, 2017 (Doc. 552) and April 12, 2017
 8 (Doc. 561). The court granted attorneys' fees under 35 U.S.C. § 285, holding the Plaintiffs jointly
 9 and severally liable. The court denied Canon's request to hold Plaintiffs' attorneys jointly and
 10 severally liable, and also denied Canon's requests for sanctions under 28 U.S.C. § 1927 and under
 11 its inherent authority. (Doc. 552 at 11-13). Plaintiffs filed a notice of appeal of the Court's orders
 12 on attorneys' fees on May 11, 2017. (Doc. 562).

13 4. Movants did not represent Plaintiffs in the consolidated Federal Circuit Appeal
 14 following judgment in this action (Appeal Nos. 17-1063 and 17-1536).

15 5. On September 1, 2017, attorney David M. Wiseblood entered an appearance on
 16 behalf of MCM in this action, and remains counsel for MCM.

17 6. The Federal Circuit's Mandate issued on May 18, 2018.

18 7. Canon has already propounded written discovery and conducted a Rule 69
 19 deposition of MCM pursuant to Rule 30(b)(6) on or about March 5, 2018. Additionally, Canon
 20 noticed and (on information and belief) conducted a Rule 30(b)(1) deposition of MCM's corporate
 21 representative, Ms. Susan Anhalt, at that time. Movants did not appear as MCM's counsel at that
 22 deposition; Mr. Wiseblood appeared for and represented MCM.

23 8. Canon already propounded written discovery and conducted a Rule 69 deposition
 24 of TPL pursuant to Rule 30(b)(6) on or about June 4, 2018. Movants did not appear as TPL's

26 2 Bunsow De Mory LLP filed a registration with the California Secretary of State on or
 27 around August 14, 2017 and received a State Bar registration or about September 21, 2017.

counsel at that deposition.

9. Movants do not represent any director, officer, or other person affiliated with Plaintiffs in his or her personal capacity.

10. Movants have advised Plaintiffs to secure alternate counsel for continued proceedings; MCM did so more than a year ago and has consented to Movants' withdrawal.

11. Movants have taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the Plaintiffs as contemplated by Rule 3-700.

12. Movants' withdrawal will not cause any prejudice or delay in this case, wherein the substantive proceedings are complete.

13. Given the nature of this request, and potential burden to parties in travelling and attending a hearing on this Motion, Movants respectfully request that the Court waive oral argument.

THEREFORE, as Movants have demonstrated good cause why withdrawal should be granted, Movants respectfully request that the Court waive oral argument, grant this request for leave to withdraw as counsel, and enter an order stating that Movants are so withdrawn and are to be terminated from this action.

Dated: December 11, 2018

Respectfully submitted,

BUNSOW DE MORY LLP

By: /s/ Aaron R .Hand
Aaron R. Hand

Henry C. Bunsow (SBN 60707)
hbunsow@bdiplaw.com
Denise M. De Mory (SBN 168076)
ddemory@bdiplaw.com
Aaron R. Hand (SBN 245755)
ahand@bdiplaw.com
BUNSOW DE MORY LLP
701 El Camino Real
Redwood City, CA 94063
Telephone: (650) 351-7248
Facsimile: (650) 351-7253

Attorneys for Plaintiffs
TECHNOLOGY PROPERTIES LIMITED, LLC and
MCM PORTFOLIO LLC